

PLANNING COMMITTEE

20 DECEMBER 2023

REPORT ON SECTION 106 AGREEMENTS JULY 2023 TO SEPTEMBER 2023

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

Report from: Adam Bryan, Director of Place

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Summary

This report informs Members on the amount of Section 106 funding received between July to September 2023 and sets out what the contributions must be spent on according to the Section 106 agreements. This report is submitted for information to assist the Committee in monitoring the contributions which developers have agreed to as part of new development schemes.

1. Recommendations

- 1.1. The Committee is asked to consider and note the Section 106 funding received, those Section 106 agreements signed during the period July to September 2023 and Habitat Regulations contributions as set out in Appendices 1 to 4.

2. Budget and policy framework

- 2.1. The Cabinet has adopted the Supplementary Planning Document 'Medway Council Guide to Developer Contributions and Obligations 2018', which sets out the Council's S106 requirements for developments of 10 dwellings and above. This report and accompanying appendices list the Section 106 agreements which have been signed in the period July to September 2023 and itemises the obligations covered by these agreements.
- 2.2. Information relating to expenditure of S106 contributions in 2021/2022 is included in Appendix 3. This information will be updated to report on 2022/2023 expenditure when final accounts have been confirmed for that period.

3. Background

- 3.1. Section 106 of the Town & Country Planning Act 1990 provides that anyone with an interest in land may enter into a planning obligation, which is enforceable by a

local planning authority. An obligation may be created by agreement or by the party with an interest in the land making a unilateral undertaking.

3.2. Obligations may:

- Restrict the development or use of land.
- Require operations to be carried out in, on, under or over the land.
- Require the land to be used in any specified way; or
- Require payments to be made to the local planning authority, either in a single sum or periodically.

3.3. A planning obligation may only constitute reason for granting planning permission if it is

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonable related in scale and kind to the development.

3.4. The S106 Officer's responsibilities include:

- Monitoring agreements and their trigger dates to ensure that obligations are adhered to.
- Working with developers and internal services/partners to ensure a coordinated approach.
- Being first point of contact once an agreement is signed.

3.5. The Medway Guide to Developer Contributions and Obligations 2018 was approved at Cabinet on 8 May 2018 for adoption as a Supplementary Planning Document. This Guide sets out Medway Council's S106 requirements for developments of 10 dwellings and above. The Guide is updated on 1 April annually to reflect the increase in costs based on the retail price index.

4. Advice and analysis

4.1. Although an agreement is signed, it is not a guarantee that the obligations will be delivered; on occasions the approved development is not implemented, and therefore no obligations would be delivered.

4.2. CIL Regulations require all planning authorities to publish an Infrastructure Funding Statement (IFS) annually. The IFS provides information on all S106 contributions agreed, received and spent, including the infrastructure/projects these contributions cover.

5. Risk management

5.1. The Section 106 Officer's responsibilities include monitoring developments to ensure that all obligations, including financial contributions, are met. Failure to pay contributions results in benefits to the community being lost. These benefits include meeting the needs of the new residents regarding educational facilities, open space and play equipment, etc.

5.2. Contributions received must also be closely monitored to ensure that contributions are spent within the timescale specified by the agreement. Failure

to meet payment deadlines will result in the contribution being returned to the developer/owner with interest at a specified rate (4% over base rate).

6. Financial implications

- 6.1. Many of the obligations are financial contributions to services which will support the new development to provide the infrastructure required, for example education, open space, transport, etc.
- 6.2. Service planning can be problematic for say education, where a contribution is expected and school expansion plans are produced, but if the development does not go ahead, it can have repercussions to provision in an area where several expected developments would, between them, fund a new school.

7. Legal implications

- 7.1. Section 106 agreements are legal documents. Developers are expected to adhere to the obligations but failure to do so can result in enforcement action being taken.

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Appendices

- Appendix 1 S106 funding received between July to September 2023
- Appendix 2 Agreements signed between July to September 2023
- Appendix 3 S106 expenditure 2022/23
- Appendix 4 Habitat Regulations: bird mitigation contributions received for developments of less than 10 units between July to September 2023
- Appendix 5 Summary of obligations in S106 relating to MC/21/0979 land at Kingsnorth Power Station

Background papers

Section 106 agreements signed between July 2023 to September 2023

[Medway Guide to Developer Contributions and Obligations May 2018 updated April 2023](#)

Infrastructure Funding Statement

Appendix 1: S106 funding received July to September 2023

App no. MC/	Site	Ward	For	Amount £
18/2961	Land west of Town Road, Cliffe Woods	Strood Rural	Travel: bus service contribution third instalment	32,244.98
97/0224/GL	Dockside	River	Retail contribution	5,331.29
18/2406	Whiffens car park	Chatham Central & Brompton	Open space: improvements to Town Hall Gardens – any unspent monies to be spent on open space facilities at the White Road area site	235,406.59
22/2207	Land at Purvilles, Lordswood Lane, Lordswood	Princes Park	Bird mitigation 20 dwellings	5,241.72

Appendix 2: S106 expenditure 2022/23

Infrastructure	Spent	Spend Description *Includes Third Party spending
Darland Banks Nature Conservation Reserve maintenance	£2,218.00	3rd annual maintenance payment*
Capstone Country Park play area	£52,126.19	Improvements to main car park
Berengrave Nature Reserve Eco Imp	£90,682.82	Access works
Cliffe Woods Rec improvements open space project	£2,491.85	Access improvements
Improvements Street End Road allotments	£3,378.70	Allotment improvements*
The Vines site improvements	£46,327.65	Footpath improvements
Borstal Recreation Ground	£160.00	Noticeboard at Baty's Marsh
Northcote Rec and Rede Common SE	£15,995.59	Access improvements at Rede Common
Fort Amherst lighting	£7,613.18	Feature lighting*
Great Lines Heritage Park works 22/23	£4,528.69	Bridge inspection and tree works
Eastgate House Gardens Improvements	£6,548.00	Architectural surveys for the Dawber building and Charles Dickens Chalet

Infrastructure	Spent	Spend Description *Includes Third Party spending
Birdwise 2022/23	£79,305.23	SPA bird mitigation measures
River wall maintenance support staff	£67,087.36	Riverside maintenance engineer and administration of river wall maintenance
Off site affordable housing at Bakersfield	£397,093.28	Affordable homes - towards 20 dwellings
Riverside Practice health pod	£2,679.44	Self help health pod
PRD Future Hoo Community infrastructure	£22,401.50	PRD community infrastructure study
Chatham Town Centre improvements	£50,481.67	Safety radios, high street improvements and town centre support
Dockside Chatham Town Centre projects	£34,758.08	Love Chatham Carnival July 2023 and Chatham Dino Day August 2023
Public Realm Friary Place	£3,969.90	Planting
St Nicholas Church benches and railings	£11,705.46	Benches and railings at St Nicholas Church*
ICT equipment at Strood Sports Centre	£3,563.70	Computer and till equipment
Allhallows Cross Park pavilion car park	£51,800.00	Car park*
High Halstow Village Hall hearing loop	£4,658.00	Hearing loop*

Infrastructure	Spent	Spend Description *Includes Third Party spending
Cliffe Woods community centre engagement	£1,003.66	Waste engagement
Transport Study Pear Tree Lane	£2,105.70	Review of the speed limit
Horsted gyratory scheme including approach	£67.65	Ongoing detailed design work
Bus service extension	£40,000.00	Extension to bus service 170
Wayfield Primary expansion	£291,013.17	School expansion
Hundred of Hoo Secondary kitchen dining	£98,687.80	Expansion of school facilities
Hundred of Hoo Primary expansion to 2FE	£956,151.63	Primary school expansion
Robert Napier bulge	£35,307.00	Additional bulge classes
The Rowans Primary Support	£155.00	Provision of primary support
Maundene School	£14,377.49	Improvement works

Appendix 3: agreements signed between July to September 2023

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
21/2063	Former Cuxton Pit no 2 Strood (Lidl)		Retail store	offsite habitat creation/enhancement inc but not limited to Open Mosaic habitat, grassland and/or grassland/scrub mix within the vicinity of the land	28,000.00
18/1595	Broomhill Reservoir		4 eco homes	Bird mitigation	958.44
				For long term maintenance and management by Friends of Broomhill	42,000.00
21/0979	Land at Kingsnorth Power Station	Peninsula	Construction of flexible EG(iii)/B2/B8 use class buildings (light industrial uses/general industrial uses/storage & distribution), sui generis uses for energy uses and a lorry park, together with servicing, parking, landscaping, drainage, remediation, demolition and earthworks	Please see Appendix 5 for a summary of obligations relating to a bus service and highway works	
23/1082	Land 209-217 High St Rochester	Rochester West & Borstal	Part demolition, change of use to educational classrooms and student accommodation	Bird mitigation	14,760.35

Plan app MC/	Location	Ward	Proposal	Towards	Amount £
				Public realm: towards improvements to Rochester High St and Heritage Action Zone	4,700.00
				Health: towards improvements to primary care premises	15,542.49
22/2241	Rochester Riverside			Improvements to support and maintain public river access to the River Medway, in particular but not limited to works to Rochester Pier	130,000.00

Appendix 4: Habitat Regulations: bird mitigation contributions received for developments of less than 10 units between July to September 2023

Application no. MC/	Site address	Ward	For	Amount received £
23/0513	187 Rock Avenue, Gillingham	Gillingham South	5 units	1,570.25
23/1107	80-82 Watling Street, Gillingham	Watling	1 unit	314.05
23/0106	Land at Middle Stoke, adjacent to 1 & 2 Jubilee Cottages, Grain Road, Middle Stoke	All Saints	9 units	2,826.45
23/1396	89 Rock Avenue, Gillingham	Gillingham South	2 units	628.10
23/1222	69 Sir Evelyn Road, Rochester	Rochester West & Borstal	1 unit	314.05
23/0737	23 Railway Street and Paddock House, Chatham	Chatham Central & Brompton	7 units	2,198.35
23/0886	24 Bill Street Road, Rochester	Strood North & Frindsbury	1 unit	314.05
23/1278	97 Marlborough Road, Gillingham	Gillingham South	1 unit	314.05
23/1064	174 Richmond Road, Gillingham	Gillingham North	2 units	628.10
23/1474	208 Canterbury Street, Gillingham	Gillingham South	3 units	942.15

Application no. MC/	Site address	Ward	For	Amount received £
23/1012	Land to rear of 76 Maidstone Road, Chatham	Fort Pitt	3 units	942.15
23/1835	Court Lodge, Lower Rochester Road, Rochester	Strood Rural	8 units	2,512.40
23/1924	38 Garfield Road, Gillingham	Gillingham North	1 unit	314.05
23/1577	1 Gladstone Road, Chatham	Fort Pitt	1 unit	314.05
23/1591	87 Balmoral Road, Gillingham	Gillingham South	1 unit	314.05
23/0970	Land rear of 9-15 Railway Street, Gillingham	Gillingham North	2 units	628.10
23/1510	Storage unit to rear of 239 High Street, fronting Solomons Road, Chatham	Chatham Central & Brompton	1 unit	314.05
23/1756	54 Woodland Road, Gillingham	Watling	2 units	628.10
22/1833	Craig House, Wilson Avenue, Rochester	Fort Pitt	1 unit	314.05
23/1656	45-47 Cooling Road, Strood	Strood Rural	1 unit	314.05
23/1864	29 Ironside Close, Chatham	Wayfield & Weeds Wood	1 unit	314.05

Application no. MC/	Site address	Ward	For	Amount received £
APP/A2280/C/ 22/3296166	The Woodlands, Hempstead Road, Hempstead	Hempstead & Wigmore	3 units	942.15
23/1487	101 Weston Road, Strood	Strood North & Frindsbury	1 unit	314.05

Appendix 5: summary of obligations for S106 relating to MC/21/0979 Land at Kingsnorth Power Station

Bus statement / bus contribution / bus service / travel plan / triggers
<p>Pursuant to condition 35 of the permission the owner has submitted to the council for approval a travel plan which includes provision of the bus service for 10 years from first occupation</p> <p>Owner to submit to council a bus statement confirming whether the bus contribution (£400,000) is a more sustainable solution than the bus service at the following triggers</p> <ul style="list-style-type: none">a. prior to first occupationb. 3 years post first occupationc. 6 years post first occupationd. 9 years post first occupation <p>The bus contribution will be prorated if payable at any of the review periods b to d.</p> <p>The bus service to run between 07.00 to 09.55 and from 15.00 to 18.45 to and from the site to Strood Railway Station and Rochester Railway Stations as may be amended with prior agreement of the council in writing and or following each review</p>
Highways contribution / trigger / scenarios / highways contribution
<p>Highways contribution: £3,016,292</p> <p>The owner to notify council as soon as reasonably practicable of the date of highways trigger one and two</p> <p>Scenario One: development brought forward in isolation</p> <p>Scenario Two: the development brought forward at the same time as additional schemes are progressed in the vicinity of the site</p> <p>Scenario Three: the HIF development has been completed, is under construction or confirmation has been provided by the council that the HIF development is programmed to commence</p>

Following the date of **Trigger One:** ' traffic generated by the development **reaching 30% of anticipated traffic movements** (2 way traffic flows assessed pursuant to condition 34 of the permission at the site gate)' the council shall confirm to the owner which scenario has been triggered

If scenario one has been triggered the owner shall enter into a Highways Agreement in respect of the Four Elms Roundabout works (see drawing 2).

If scenario 2 is triggered, then the owner to pay the council up to 50% of the highways contribution

If scenario 3 is triggered, then the owner to pay the council up to 50% of the highways contribution

The owner shall only be obliged to pay a contribution if the council has provided justification for each payment including confirmation of why the contribution is required and what schemes the contributions will be put toward as mitigation for the development.

Any payment required shall be made within 30 days of a valid request from the council

Following the date of **Trigger Two:** ' traffic generated by the development **reaching 60% of anticipated traffic movements** (2 way traffic flows assessed pursuant to condition 34 of the permission at the site gate)' the council shall confirm to the owner which scenario has been triggered.

If scenario one has been triggered the owner shall enter into a Highways Agreement in respect of the Four Elms Roundabout works (see drawing 2).

If scenario 2 is triggered, then the owner to pay the council up to 50% of the highways contribution

If scenario 3 is triggered, then the owner to pay the council up to 50% of the highways contribution

The owner shall only be obliged to pay a contribution if the council has provided justification for each payment including confirmation of why the contribution is required and what schemes the contributions will be put toward as mitigation for the development.

Any payment required shall be made within 30 days of a valid request from the council